

FPPC REGULATION AND PROJECT CALENDAR -- SEPTEMBER 2003 UPDATE

A. STATUTORILY REQUIRED OR OTHERWISE HIGH-PRIORITY ITEMS¹

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Reg. 18312: Rulemaking Procedure. The Commission will consider streamlining the regulation adoption process. This may include regulatory changes.	Adoption	NO MEETING HELD		MEETING CANCELED							NO MEETING SCHEDULED	
2. Reg. 18313: Forms & Manuals. Reg. 18313 requires the Commission to mail a copy of a new or revised publication to interested persons prior to consideration. The amendment is proposed to allow e-mail and web-based notice to interested persons.			Adoption									

¹ Shaded rows indicate completed projects.

	Jan	Feb	March	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.
3. Reg. 18754 § 87302.6: Newly Created Boards & Commissions: § 87302.6 requires members of boards and commissions of newly created state and local agencies to file SEIs in the same manner as § 87200 filers until the agency has an approved conflict of interest code. Section 87302.6 does not specify where these statements will be filed or the content of disclosure.		IP Held	Adoption									

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
4. Reg. 18702.5: Declaring a Conflict of Interest: AB 1797 requires that a public official who holds an office specified in section 87200 and who has a financial interest in a decision to publicly identify the financial interest giving rise to the conflict of interest, recuse himself or herself from discussing and voting on the matter, and leave the room until after the discussion, vote, or other disposition of the matter is concluded, except as specified.		IP Held	Adoption		Adoption							
5. Section 87103.5; Reg. 18707.5 (AB 2366): Income from Retail Sales Exception: New amendments add an alternative method to determine when this exception for public officials who own retail businesses applies.										Pre-notice		Adoption

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6. Section 89519: Surplus Funds. Where campaign funds become surplus campaign funds, the personal use law limits their expenditure. In 1990, the Commission adopted a regulation clarifying this provision. However, OAL rejected it. With the introduction of Prop 34 rules, the Commission will reconsider whether regulatory clarification may be useful.						Pre-Notice		Adoption				
7. Reg. 18452: CalPERS' Election Reporting: § 84225 requires candidates for the CalPERS Board to file campaign statements. Reg. 18452 provides the filing schedule and the contents of the statements. CalPERS' election schedule provides for runoff elections. Reg. 18452 may need to be amended to allow for the runoff elections.							CalPERS is Currently in litigation					

B. ON-GOING PROJECTS: Campaign

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. <i>Proposition 34 Update:</i> It is too soon to tell what additional major policy issues are raised by full implementation of Proposition 34 in the November general election. November 2002 was the first general election to which these provisions applied. Staff anticipates that there will be a need for further review of the implementation of Proposition 34.										Discuss No New Issues		
2. <i>"Independent Expenditure"</i> (Regs. 18225.7 & 18550.1) § 82031 defines "independent expenditure." The proposed regulation clarifies the "made at the behest" test.	Set for Another Meeting		Pre- Notice or Adoption									
3. <i>Reg. 18225: Expenditure.</i> The Commission will discuss "express advocacy" as defined in this regulation. No regulatory action is currently anticipated.			Staff Memo		Pre- Notice		Waiting for further guidance from the courts					

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4. Late Contribution Reports: Reg. 18116 provides that when reports are due on a Saturday, Sunday, or official state holiday, the deadline is changed to the next working day, except for late contribution reports and late independent expenditure reports. The Commission has been asked to apply the weekend extension to traditional LCRs.	Deferred for two years											
5. Affiliated Entities (18428): Discusses reporting by “affiliated entities.” May be further amended to clarify application of the aggregation provisions to local candidates and committees, add a definition of “affiliated entities” or codify other advice in the area.				IP Held								Pre Notice

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6. Aggregation under section 84308: Section 84308 disqualifies any “officer” of a public agency, who is running or has run for elective office, from participating in decisions affecting his or her campaign contributors. The statute provides that when a closed corporation is a party (or participant), the majority shareholder of the corporation is also a party (or participant). This project considers whether further clarification of this aggregation rule is necessary.												
7. Reg. 18530.2: Transfer/attribution of funds raised prior to Proposition 34 limits	ER Adoption				Perm Adoption							
												Pre-Notice

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8. Reg 18404.1 Termination of Committees' Appeal Procedure. Reg. 18404.1 requires termination of committees after a specified period of time. However, the regulation also allows the Executive Director to extend this period under certain circumstances. This proposed project would develop a procedure for the appeal of the Executive Director's decision.						Adoption						
9. Reg 18427.1 Notification to Contributors of \$5,000 or More: Vigo Nielsen of Nielsen Merksamer has requested amendment Reg. 18427.1(b) to clarify the notice to major donors that they must file a Late Report if their contribution or expenditure occurs during the late contribution period.									Adoption			<u>Adoption</u> <u>Awaiting</u> <u>Outcome</u> <u>of</u> <u>Related</u> <u>Bill for</u> <u>Other</u> <u>Changes</u>

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10. Proposition 34 and Recall Elections: Proposition 34 exempts a state candidate who is the target of a recall election from its contribution limits. (This project would place this exception in a regulation, and clarify the treatment of these types of elections under other provisions of the Act, such as the reporting rules in Chapter 4.)							Adoption	<u>Fact Sheet</u>				

C. ON-GOING PROJECTS: Conflict of Interest and Others.

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Property "Subject of" a Decision: Reg. 18704.2 sets out a list of situations in which an official's property is considered directly involved in a decision. The Commission has been asked whether this list is an exclusive list even in applying the indirect rule for materiality (i.e., where an official's real property is within 500 feet of the property that is the subject of a decision).	Adoption											
2. General Plans and Conflict of Interest: The Commission will consider whether clarifying amendments to the materiality or public generally regulations are needed regarding general plan decisions. May also include a "standard of care" rule.		IP Held		Pre-Notice		Pre-Notice		Adoption		IP Meeting		

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<p>3. Reg. 18709: Codification of segregation rules: Generally, the conflict-of-interest rules of the Act are applied on a decision-by-decision basis. Thus, where a major series of decisions can be “segmented” into smaller decisions, the official may be able to participate in some of those decisions. This reg. codifies a process for segmentation.</p>						Pre-Notice		Pre Notice	Adoption			
<p>4. Reg. 18700: Basic Rule: Guide to Conflict-of-Interest Regulations. In 1998 a chart was inserted into this regulation indicating the relocation of the various rules as part of the massive restructuring of the conflict-of-interest regulations, which were adopted that year. Since that time, the conflict-of-interest regulations have gone through several more revisions and the usefulness of the chart is diminished. The Commission will consider removing the chart.</p>	Proposal Adopted in 2002											

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<p>5. Small Cities - Public Generally -- Reg. 18707.3: Reg. 18707.3 provides an exception geared specifically toward small jurisdictions. Staff has been asked to review the regulation to see if language can be tailored to meet this unique concern of small cities.</p>	Repeal											
<p>6. Reg 18329.5: Formal Written Advice and Informal Assistance. This item includes procedures that will enable the Commission to effectively advise individuals, an agency, or code reviewing body, on the content of their conflict of interest code.</p>		IP Held			Adoption							

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7. Guidelines and procedures for filing officers/officials. Guidelines to be considered include: (a) Initial notification requirements (time lines); (b) Required contacts or attempted contacts with each non-filer, and documentation requirements for those contacts; and (c) Authority to hold filing officers/officials accountable for failing to comply with notification requirements. <i>[Regulatory action contingent on passage of legislation.]</i>										IP if Needed or Discuss		Adoption if Needed
8. Reg 18370 State Agency Ethics Training: With passage of AB 3022, the requirement to receive ethics training has been expanded from high-level public officials to all officials required to file statements of economic interests. This may require revision to Reg. 18370.						Not Needed						

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3. 9. Reg. 18703.3: Disclosure of Incentive Income. In re Hanko: On August 9, 2002, the Commission adopted <i>In re Hanko</i> (O-02-88), which held that payments to a hospital district director from her employer will be attributed to a purchaser of her employer's products under certain circumstances. The Commission directed staff to investigate amendment of Commission regulations to require disclosure of incentive income.								Pre- Notice	Pre Notice	Adoption		
10. Study of Merger of Other Conflict of Interest Laws into the Act: Interested parties have asked the Commission to study incorporating Government Code section 1090, et seq., and possibly other nonPRA conflict of interest laws into the Act.											IP Meeting	

D. OTHER MISCELLANEOUS ITEMS

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Annual Technical Clean-up. The Commission considers annually changes to Commission regulations that resulted from the staff's review for technical and other minor changes.									Adoption			
2. Quarterly review of work plan and plan updates, including Proposition 34.			Work Plan Revision			Work Plan Revision			Work Plan Revision	2004 Reg. Calendar		2004 Reg. Calendar
3. Selection of Local Candidates and Controlled Committees for Audit: Reg. 18991 dictates the procedure that shall be followed by the Commission for selecting local candidates and their controlled committees for audit by the Franchise Tax Board. The Commission may wish to amend the regulation to improve the method of selection.	Adoption											

E. NEW ITEMS

None